

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3827 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MANILAL RAJARAM TRIVEDI

Versus

THE POLICE SUPERINTENDENT & ORS.

Appearance:

MR MC BHATT for Petitioner
MR NIGAM SHUKLA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/08/96

ORAL JUDGMENT

The petitioner filed this Special Civil Application in which prayer has been made that the proceedings commenced vide annexure 'A' and 'B', be quashed and set aside and the respondents may be directed not to lodge further complaints against the petitioner under Section 33 read with Section 131 of the Bombay Police Act, for selling cold drinks, food packets, etc. in the Jay Shankar Sundari Hall.

2. The learned counsel for the petitioner made a statement before this Court that the possession of the portion where the petitioner was doing the aforesaid business has already been taken away by the concerned management and as such nothing now survives so far as that part of grievance of the petitioner is concerned. The only thing remains, as contended by the learned counsel for the petitioner, is that after dismissal of this Special Civil Application, the respondents may lodge a complaint against the petitioner u/s.33 read with Sec.131 of the Bombay Police Act.

3. Interim relief has been granted by this Court on 10.8.83 in terms of para 12(C). Para 12(C) of the petition reads as under:

"pending hearing and final disposal of this petition the respondents, their servants and agents may please be restrained by interim injunction not to disturb the petitioner in carrying out the business of selling food-packets, ice-cream, cold-drinks, etc., in Jaishanker Sundri Hall and be pleased to restrain the respondents from lodging any complaint against the petition u/s.33 r/w. S.131 of the Bombay Police Act and be pleased to restrain the respondent from physically removing or taking any goods belonging to the petitioner and be pleased to stay the further proceedings in pursuance of Annex.A and B pending before the leaned Metropolitan Magistrate Court No.12, City of Ahmedabad;"

4. So far as the first part of this prayer is concerned, it no more survives in view of the fact that the petitioner has already handed over the possession of the portion occupied by him as well as has discontinued doing business of selling food packets, ice-cream, etc. at the place in question. The rest of the part of prayer where prayer has been made for direction to the respondents not to lodge complaint under the aforesaid provisions, may only be the matter of grievance at this stage.

5. Taking into consideration the subsequent events which have taken place and the fact that the petitioner has already handed over the possession of the portion in his occupation in Jay Shankar Sundri Hall, coupled with the fact that this Court has, by issuing interim relief, restrained the respondents from lodging any complaint

against the petitioner u/s.33 read with Section 131 of the Bombay Police Act, the respondents now may consider objectively, whether it will be just and reasonable and in the interest of justice, to file any complaint against the petitioner or not at this stage.

6. This Special Civil Application is dismissed subject to aforesaid observations. Rule is discharged. No order as to costs.

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(sunil)